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HOUSE OF REPRESENTATIVES

REPT. 100-339
Part 2

COTTON RESEARCH AND PROMOTION PROGRAM ACT OF 1987

DECEMBER 4, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 1622]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1622) to provide that all United States cotton producers participate in defraying costs of their research and promotion program and that imported cotton and products be subject to the program assessments, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (to the amendment of the bill as reported by the Committee on Agriculture) are as follows:

Amend paragraph (3) of section 2 of the reported amendment as follows:

(1) Strike out "and" at the end of subparagraph (A).

(2) Strike out the period at the end of subparagraph (B) and insert "; and".

(3) Insert the following new subparagraph at the end thereof:

(C) striking out "United States cotton." and inserting "cotton.".

Amend subsection (a) of section 3 of the reported amendment as follows:

(1) Amend paragraph (3)(A) to read as follows:

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(A) inserting ", and handlers who are importers shall, subject to subsection (i), pay to the Cotton Board on imported cotton" before ", an assessment", and

(2) Strike out the period at the end of paragraph (3)(B) and insert "; and".

(3) At the end of such subsection insert the following:

(4) by adding at the end thereof the following new subsection:

"(i) The Secretary and the Commissioner of Customs are authorized to enter into an agreement under which the United States Customs Service shall collect, and transmit to the Cotton Board, the assessments prescribed by order on persons who import cotton into the United States. The agreement shall provide that the Cotton Board shall reimburse the Customs Service for the administrative costs incurred by it in collecting the assessments.".

In paragraph (1) of section 3(b) of the reported amendment—

(1) strike out "and the products thereof" in subparagraph (B); and

(2) strike out subparagraph (C).

In section 8(b) of the Cotton Research and Promotion Act (as proposed to be added by section 4 of the reported amendment) strike out the first sentence and insert the following: "Notwithstanding the foregoing provisions of this section, the Secretary shall conduct a referendum among those producers and importers who, during a representative period determined by the Secretary, have been engaged in the production and importation of cotton. The purpose of the referendum, which the Secretary shall conduct within 8 months after the date of the enactment of the Cotton Research and Promotion Program Act of 1987, is to ascertain whether such producers and importers approve or disapprove the proposed amendment to the order specified in such Act. The proposed amendment shall be treated as approved only if not less than two-thirds of the producers and importers voting in such referendum, or a majority of the producers and importers voting in such referendum if such majority produced and imported not less than two-thirds of the cotton produced and imported during the representative period, favor the amendment. The Secretary shall publish the results of the referendum.".

Strike out section 5 of the reported amendment.

Amend section 6 of the reported amendment to read as follows:

SEC. 5. Section 17 of the Cotton Research and Promotion Act (7 U.S.C. 2116) is amended as follows:

(1) In subsection (c)—

(A) insert "(1)" after "means"; and

(B) insert "and (2) upland cotton produced in foreign countries and imported into the United States" after "seed".

(2) In subsection (d), insert ", or who imports cotton into the United States" after "cottonseed".

(3) At the end thereof insert the following new subsection:

"(h) The term 'cotton producers' and any other reference to persons who produce cotton shall, if the amendment referred to in section 3(b) of the Cotton Research and Promotion Program Act of 1987 is approved by referendum and for so long as such amendment is in effect, be treated as also including persons who import cotton into the United States.".

I. INTRODUCTION

A. BACKGROUND

The Cotton Research and Promotion Act (7 U.S.C. 2101–2118) was enacted in 1966 to authorize the establishment of a program for research and promotion of cotton and its uses, and of a Cotton Board to administer it. Pursuant to the Act, a referendum was held which approved the establishment of the program financed through a uniform, self-assessment of $1 per bale on domestic upland cotton, and supplemental federal funds.

In 1976, the Act was amended to end supplemental federal financing, and to direct a referendum to determine whether producers favored an increase in the self-assessment by an amount not to exceed 1 percent of the value of the cotton. The referendum was held, and producers approved the increase in the assessment. Since 1977, the program has been financed entirely by assessments on domestically produced raw upland cotton. The current rate of assessment is $1 per bale plus 0.6 percent of the value of the commodity at the point of first sale.

Under current law, handlers of domestic upland cotton are required to collect an assessment from the producer on each bale at the point of first sale. The assessments are then transmitted by the handlers to the Cotton Board. The revenues from the assessments are authorized to be used by the Cotton Board (1) to reimburse the Secretary of Agriculture for the costs, up to $200,000, of the administering any referendum; (2) to reimburse the Secretary of Agriculture for the costs of supervising any order or amendment, up to 5 employee years after its issuance; and (3) for reasonable expenses and expenditures incurred by the Cotton Board in connection with the research and promotion activities authorized by the Act. In recent years, the annual program budget has averaged approximately $18 million, and producer participation in the program has averaged 65–70 percent.

On March 16, 1987, Cognressman Huckaby introduced H.R. 1622, a bill to provide that all U.S. cotton producers participate in defraying costs of their research and promotion program and that imported cotton and products be subject to the program assessments. On March 18, the Subcommittee on Cotton, Rice and Sugar held a hearing on the bill, and then reported it favorably with amendments to the Committee on Agriculture.

On June 2, 1987, the Committee on Agriculture met and ordered H.R. 1622 as amended reported favorably. The report of the Committee on Agriculture was filed on October 5, at which time the bill as amended was sequentially referred to the Committee on Ways and Means for the period ending December 4, 1987.

B. SUMMARY OF PRINCIPAL PROVISIONS

The bill as amended by the Committee on Ways and Means would require the Secretary of Agriculture to conduct a referendum within 8 months to determine whether the current upland cotton research and promotion order should be amended to provide (1) for an appropriate number of importers to serve on the Cotton Board, and (2) for assessments to apply to imported upland cotton.

Both cotton importers and cotton producers who have been engaged in the production or importation of upland cotton during a representative period, as determined by the Secretary of Agriculture, would be eligible to vote. Approval of the referendum would require either two-thirds of those voting in the referendum, or a majority of those voting if such majority accounts for not less than two-thirds of the cotton produced and imported during the representative period.

If the referendum is approved, the changes would automatically take effect. Both handlers of domestic upland cotton and importers of upland cotton would then be required to pay an assessment to the Cotton Board. As under current law, participation in the program would remain voluntary, and producers and importers who do not support the problem would be entitled to a refund of any assessments paid by them.

The amended bill also authorizes the Secretary of Agriculture and the Commissioner of Customs to enter into an agreement under which Customs would collect and transmit to the Cotton Board the assessments on imports, with costs or collection to be reimbursed by the Cotton Board.

C. COMMITTEE ACTION

On October 5, 1987, H.R. 1622 was sequentially referred to the Committee on Ways and Means for the period ending December 4, 1987. The Committee held a public hearing on H.R. 1622 on November 17, 1987. Testimony was received from Congressman Huckaby, the Administration, and private sector witnesses. A Treasury Department official testified on behalf of the Administration in opposition to the bill. The National Cotton Council spoke in favor of the bill as approved by the Committee on Agriculture. The National Farmers Union, American Agricultural Movement, and American Association of Exporters and Importers' Textile and Apparel Group all testified in opposition to the bill.

In addition to these witnesses, the Committee received written statements from Congressmen Anthony, Coelho, Combest, Emerson, Flippo, and Thomas in support of the bill. The American Farm Bureau Federation and the Plains Cotton Growers, Inc. also submitted written statements in support of the bill. In addition, the Committee received letters from the U.S. Trade Representative and the Department of Commerce expressing opposition to the bill.

On December 2, the Committee met in executive session and considered H.R. 1622 as amended by the Committee on Agriculture. An amendment to the amended bill was considered and approved by a voice vote. The Committee then ordered favorably reported, by a voice vote, H.R. 1622 as amended.

II. Detailed Explanation of Provisions

A. PRESENT LAW

The Cotton Research and Promotion Act (7 U.S.C. 2101–2118) authorizes a program of research and promotion to encourage the use of U.S. cotton. The program is financed through a uniform, self-assessment on domestically produced upland cotton. The order establishing the program, and any amendments to the order, are subject to approval by domestic cotton producers through a referendum administered by the Secretary of Agriculture.

Persons who, during a representative period determined by the Secretary, have been engaged in the domestic production of upland cotton are eligible to vote in such referenda. Approval of a proposed order or amendment requires approval by either two-thirds of the producers voting, or a majority of the producers voting if such majority accounts for not less than two-thirds of the cotton produced during the representative period.

Assessments equal to $1 per bale, plus an additional amount of not more than 1 percent of the value of the cotton, must be collected from the producer by the first handler of upland cotton, and transmitted to the Cotton Board. The proceeds of the assessments are used (1) to reimburse the Secretary for the costs of administering any referendum and for supervisory work in connection with the order, and (2) to finance the expenses of the Cotton Board and research and promotion programs approved by the Cotton Board.

Although the collection of assessments is required on all sales of domestic upland cotton, the program is considered to be voluntary, because any producer who does not support the research and promotion program is entitled to a refund of any assessments paid, within 60 days of demand.

B. EXPLANATION OF PROVISION AND JUSTIFICATION

The bill as amended by the Committee on Agriculture would authorize the current program to be changed so that it would be mandatory, assessments would be applied to imports of upland cotton and imports of products containing cotton, and importers would be represented on the Cotton Board. These changes would go into effect if a majority of domestic cotton producers approve them in a referendum to be conducted by the Secretary of Agriculture within 8 months of enactment.

The bill as amended by the Committee on Ways and Means would require the Secretary of Agriculture to conduct a referendum within 8 months to determine whether the current order should be amended to provide (1) for an appropriate number of importers to serve on the Cotton Board, and (2) for assessments to apply to imported upland cotton. This provision differs from the provision approved by the Committee on Agriculure, by limiting the application of the assessment on imports to upland cotton rather than all cotton and cotton products. This change would thus extend the assessment to imports of the *same product* as is subject to domestic assessments. Such a change is consistent with the principle of national treatment that is required under the General Agreement on Tariffs and Trade.

In considering the proposed application of the assessments to cotton-containing products, the Committee was also concerned about the administrative burden and disruption to the importing community that would result from such a change. The Committee received information from the Customs Service that the application of the assessment to cotton-containing products would involve thousands of items under the Tariff Schedules, and approximately half a million entries of imports per year. (In contrast, the pork promotion fee applies to 13 items under the Tariff Schedules; the beef promotion fee applies to 16 items; and the honey fee applies to only 3 tariff schedule items.) The costs of collecting and forwarding fees on all cotton-containing products would range from $700,000 to $5 million per year. These factors, in addition to concerns about the discriminatory effects against importers in light of strict import quotas on textiles and apparel products, led the Committee to omit application of the fee to cotton-containing products.

The amendment does not specify the number of importers who should serve on the Cotton Board, but requires "an appropriate number" to be determined by the Secretary of Agriculture. The Committee intends that, should the proposed order be approved, there should always be at least one importer serving on the Board, with such additional members as are appropriate given the size of the importing community and the proportion of importers who support the program. The Secretary may, in response to changed circumstances, alter the number of importers who serve when membership on the Board changes.

The amendment of the Committee on Ways and Means also makes certain other changes to provide for national treatment and thus comport with our international obligations. With respect to eligibility to vote in the referendum, the amendment authorizes importers, as well as domestic cotton producers, to vote, since the outcome of the referendum will have a direct effect on importers. Consistent with the structure of current law, the Secretary of Agriculture would determine eligibility based on producers and importers who have been engaged in the production or importation of cotton during a representative period.

In response to concerns raised during the Committee hearing regarding the standard for approval of the proposed change, the Committee amendment retains the standard used in current law, which is a two-thirds majority rather than a simple majority. To account for the eligibility of importers to vote in the referendum, the Committee amendment amends the standard to read, "two-thirds of the producers and importers voting in such referendum, or a majority of the producers and importers voting in such referendum if such majority produced and imported not less than two-thirds of the cotton produced and imported during the representative period."

Under current law, the cotton research and promotion program is financed by voluntary self-assessments. This type of program is thus controlled and administered by the producers themselves, with minimal supervision by the Federal Government. The bill as amended by the Committee on Agriculture would, however, repeal the authority to issue refunds to producers who do not support the program. The nature of the program and of the assessments would, thus, become mandatory.

A change to a mandatory assessment system raises serious questions about the taxing authority of the Federal Government. The Constitution assigns to Congress the power to levy taxes and other revenue-raising measures. The Congress does not delegate its taxing authority. Therefore, the decision as to whether or not a mandatory fee, a tax, should be levied is one which should be made by the Congress, and not by a referendum of domestic cotton producers. In addition, even if it were appropriate to delegate this Congressional authority to taxpayers, it would be inappropriate to allow one class of taxpayers, domestic cotton producers, to impose a tax on a separate and unrepresented group, cotton importers.

The Committee is very concerned that agricultural programs which are based on voluntary participation and producer control not be transformed into mandatory programs financed by mandatory taxes. During the public hearing, the Committee heard considerable support for maintaining the option to receive refunds, and considerable opposition to a program financed by a mandatory tax. The Committee therefore chose to maintain the refund provision in current law. To remain consistent with our international obligations, the refund provision will also apply to importers who do not support the research and promotion program.

The Committee recognizes that collection of the assessments on imports of cotton may be facilitated by the U.S. Customs Service, which currently collects other fees such as customs duties and user fees. The Committee amendment, therefore, authorizes the Secretary of Agriculture and the Commissioner of Customs to enter into an agreement under which Customs would collect and transmit to the Cotton Board the assessments on imports, with costs of collection to be reimbursed by the Cotton Board. This provision is consistent with other provisions in current law which provide for reimbursement of Government costs, and reflects the intent of the Committee that the program be self-financing with no cost to the Federal Government.

Finally, the bill as amended includes various conforming amendments to the Cotton Research and Promotion Act that are consistent with the principal changes discussed above.

III. Budget Effects of the Bill

A. COMMITTEE ESTIMATE

In compliance with clause 7(a) of Rule XIII of the Rules of the House of Representatives, the following statement is made: The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO) which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives, the Committee states that the bill as amended would have no discernible effect on new budget authority, new spending authority, or new credit authority, or increased or decreased revenues or tax expenditures.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 4, 1987.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1622, the Cotton Research and Promotion Program Act of 1987, as amended and ordered reported by the House Committee on Ways and Means on December 2, 1987. We estimate that the amended bill would result in no significant cost or savings to the federal government.

Under current law, only domestic cotton producers pay an assessment based on their production to the Cotton Board to support cotton research and production activities. The amended H.R. 1622 would require that imported cotton (but not imported cotton products) be assessed at the same rate as domestic cotton, subject to a two-thirds majority approval in a referendum of cotton producers and importers. The amount of the assessment does not affect the federal budget because the Cotton Board is not a government agency, and the cost of conducting the referendum and collecting the assessments would be paid or reimbursed by the Cotton Board. Therefore, these provisions would result in no net cost to the federal government.

The amendment would retain the voluntary nature of the current program by allowing cotton producers and importers, if they choose not to support the cotton research and promotion activities, to obtain a refund of their assessment.

The United States is a major cotton exporting country, and imports little cotton. If the assessment changes are approved in the referendum, they would produce about $25,000 per year in additional funds available to the Cotton Board for promotion and research activities. Any increased promotional expenditures by the Cotton Board would not be significant enough to increase domestic cotton consumption, and would therefore not reduce Commodity Credit Corporation (CCC) exenditures for its cotton program. (H.R. 1622 as reported by the Agriculture Committee would produce about $20 million in additional funds annually for the Board, because it would not permit assessment refunds and would apply the assessment to both cotton and cotton products. Resulting promotion expenditures would result in CCC savings of $3 million in fiscal year 1989 and $5 million annually thereafter under the Agriculture Committee bill.)

Enactment of this bill would not affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

JAMES BLUM,
(For Edward Gramlich, Acting Director).

IV. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. VOTE OF THE COMMITTEE

In compliance with clause 2(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made: The bill, H.R. 1622, as amended, was ordered favorably reported to the House of Representatives on December 2, 1987, by voice vote.

B. OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of Rule XI of the Rules of the House of Representatives, the Committee reports that its action was not based on any oversight findings.

C. OVERSIGHT BY COMMITTEE ON GOVERNMENT OPERATIONS

In compliance with clause 2(l)(3)(D) of Rule XI of the Rules of the House of Representatives, the Committee states that no oversight findings and recommendations have been submitted to this Committee by the Committee on Government Operations with respect to the provisions contained in this bill.

D. INFLATIONARY IMPACT

In compliance with clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee states that the provisions of the bill are not expected to have any inflationary impact on the economy.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown below. The changes made to existing law by the bill as reported by the Committee on Agriculture are shown on pages 12 through 18 of House Report, Part 1.

For the information of the Members, the changes proposed by this committee to the Cotton Research and Promotion Act, as proposed to be amended by the amendment reported by the Committee on Agriculture, are shown as follows (matter proposed to be omitted is shown in italic and enclosed in black brackets, new matter is printed in boldface roman, matter in which no change is proposed is shown in italic):

COTTON RESEARCH AND PROMOTION ACT

(7 U.S.C. 2101–2118)

AN ACT To enable cottongrowers to establish, finance, and carry out a coordinated program of research and promotion to improve the competitive position of, and to expand markets for, cotton

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the Cotton Research and Promotion Act. (7 U.S.C. 2101 note.)

LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

SEC. 2. Cotton is the basic natural fiber of the Nation. It is produced by many individual cottongrowers throughout the various cotton-producing States of the Nation. Cotton moves in large part in the channels of interstate and foreign commerce and such cotton which does not move in such channels directly burdens or affects interstate commerce in cotton and cotton products. All cotton produced in the United States and imported into the United States is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in cotton and cotton products. The efficient production of cotton and the maintenance and expansion of existing markets and the development of new or improved markets and uses is vital to the welfare of cottongrowers and those concerned with marketing, using, and processing cotton as well as the general economy of the Nation. The great inroads on the market and uses for United States cotton which have been made by manmade fibers have been largely the result of extensive research and promotion which have not been effectively matched by cotton research and promotion. The production and marketing of cotton by numerous individual farmers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary to the maintenance and improvement of the competitive position of, and markets for, cotton. Without an effective and coordinated method for assuring cooperative and collective action in providing for, and financing such programs, individual cotton farmers are unable adequately to provide or obtain the research and promotion necessary to maintain and improve markets for cotton.

It has long been found to be in the public interest to have, or endeavor to have, a reasonable balance between the supply of and demand for cotton grown in this country. To serve this public interest the Congress has provided for the comprehensive exercise of regulatory authority in regulating the handling of such cotton supplemented by price-support programs with the objective of adjusting supply to demand in the interest of benefiting producers and all others concerned with the production and handling of cotton as well as the general economy of the country. In order for the objective of such programs to be effectuated to the fullest degree, it is necessary that the existing regulation of marketing be supplemented by providing as part of the overall governmental program for effectuating this objective, means of increasing the demand for cotton with

the view of eventually reducing or eliminating the need for limiting marketings and supporting the price of cotton.

It is therefore declared to be the policy of the Congress and the purpose of this Act that it is essential in the public interest through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development, financing through adequate assessments on all cotton marketed in the United States and cotton imported into the United States, and carrying out an effective and continuous coordinated program of research and promotion designed to strengthen cotton's competitive position and to maintain and expand domestic and foreign markets and uses for **[**United States cotton.**]** **cotton.** *(7 U.S.C. 2101.)*

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REQUIRED TERMS IN ORDERS

SEC. 7. Orders issued pursuant to this Act shall contain the following terms and conditions:

(a) Providing for the establishment and selection by the Secretary, of a Cotton Board, and defining its powers and duties, which shall include only the powers: (1) To administer such order in accordance with its terms and provisions; (2) To make rules and regulations to effectuate the terms and provisions of such order, including the designation of the handler responsible for collecting the assessment; (3) To receive, investigate, and report to the Secretary complaints of violations of such order; and (4) To recommend to the Secretary amendments to such order. (7 U.S.C. 2106(a).)

(b) Providing that the Cotton Board shall be composed of (1) representatives of cotton producers selected by the Secretary from nominations submitted by eligible producer organizations within a cotton-producing State, as certified pursuant to section 14 of this Act, or, if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the manner authorized by the Secretary, so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States; and (2) an appropriate number of representatives, as determined by the Secretary, of persons who import cotton into the United States. Each cotton-producing State shall be entitled to at least one representative on the Cotton Board. The Secretary may appoint a number of consumer advisors to the Cotton Board not to exceed 15 per centum of the membership of the Cotton Board. The Cotton Board shall reimburse the consumer advisors for expenses incurred in attending meetings of the Board in the same manner as the Cotton Board members.

(c) Providing that the Cotton Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising or sales promotion or research and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective. (7 U.S.C. 2106(c).)

(d) Providing that the Cotton Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising and promotion and research and development projects. (7 U.S.C. 2106(d).)

(e) Providing that the producer or other person for whom the cotton is being handled shall pay to the handler of cotton designated by the Cotton Board pursuant to regulations issued under the order and that such handler of cotton shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board, and handlers who are importers shall, **subject to subsection (i),** *pay to the Cotton Board on imported cotton, an assessment prescribed by the order, on the basis of bales of cotton handled, for such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by him, and for reimbursing the Secretary (1) for expenses not to exceed $300,000 incurred by him in connection with any referendum conducted under section 8, and (2) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after an order or amendment to an order has been issued and made effective. To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton, unless specifically authorized by provisions of this subsection. The rate of assessment prescribed by the order shall be $1 per bale of cotton handled but, subject to approval in a referendum as provided in section 8, the Secretary shall issue an amendment to the order which shall provide that, in each marketing year, the rate shall be supplemented by an additional per bale amount to be collected or paid as provided in this subsection, such amount to be at a rate as prescribed in the amendment to the order, but not exceed 1 per centum of the value of cotton as determined by the Cotton Board and the Secretary. Neither the amendment to the order authorized by the foregoing provisions nor the disapproval of such amendment in a referendum shall operate to decrease or otherwise affect the amount of the assessment of $1 per bale in effect under the order published in the Federal Register on December 31, 1966. No authority under this Act may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this Act. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy: Provided, That the remedies provided for elsewhere in this Act or now or hereafter existing at law or in equity. (7 U.S.C. 2106(e).)*

(f) Providing that the Cotton Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting

by the Cotton Board with respect to the receipt and disbursement of all funds entrusted to it. (7 U.S.C. 2106(f).)

(g) Providing that the Cotton Board, with the approval of the Secretary, shall enter into contracts or agreements for the development and carrying out of the activities authorized under the order pursuant to sections 6 (a) and (b), and for the payment of the costs thereof with funds collected pursuant to the order, with an organization or association whose governing body consists of cotton producers selected by the cotton producer organizations certified by the Secretary under section 14, in such manner that the producers of each cotton-producing State will, to the extent practicable, have representation on the governing body of such organization in the proportion that the cotton marketed by the producers of such State bears to the total cotton marketed by the producers of all cotton-producing States subject to adjustments to reflect lack of participation in the program by reasons of refunds under section 11. Any such contract or agreement shall provide that such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertising, and sale promotion projects, together with a budget, or budgets, which shall show the estimated cost to be incurred for such projects, and that any such projects shall become effective upon approval by the Secretary. Any such contract or agreement shall also provide that the contracting organization shall keep accurate records of all its transactions and make an annual report to the Cotton Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require. (U.S.C. 2106(g).)

(h) Providing that no funds collected by the Cotton Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section. (7 U.S.C. 2106(h).)

(i) The Secretary and the Commissioner of Customs are authorized to enter into an agreement under which the United States Customs Service shall collect, and transmit to the Cotton Board, the assessments prescribed by order on persons who import cotton into the United States. The agreement shall provide that the Cotton Board shall reimburse the Customs Service for the administrative costs incurred by it in collecting the assessments.

REQUIREMENT OF REFERENDUM AND COTTON PRODUCER APPROVAL

SEC. 8. (a) The Secretary shall conduct a referendum among persons who, during a representative period determined by the Secretary, have been engaged in the production of cotton for the purpose of ascertaining whether the issuance of an order is approved or favored by producers. No order issued pursuant to this Act shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the cotton produced during the representative period by producers voting in such referendum and by not less than a majority of the producers voting in such referendum. (7 U.S.C. 2107.)

(b) [*Notwithstanding the foregoing provisions of this section, the Secretary shall, within a period not to exceed 8 months from the date of enactment of the Cotton Research and Promotion Program Act of 1987, conduct a referendum among persons who have been cotton producers during a representative period, as determined by the Secretary, for the purpose of ascertaining whether they approve or disapprove the proposed amendment to the order specified in such Act and shall publish the results of the referendum.*] **Notwithstanding the foregoing provisions of this section, the Secretary shall conduct a referendum among those producers and importers who, during a representative period determined by the Secretary, have been engaged in the production and importation of cotton. The purpose of the referendum, which the Secretary shall conduct within 8 months after the date of the enactment of the Cotton Research and Promotion Program Act of 1987, is to ascertain whether such producers and importers approve or disapprove the proposed amendment to the order specified in such Act. The proposed amendment shall be treated as approved only if not less than two-thirds of the producers and importers voting in such referendum, or a majority of the producers and importers voting in such referendum if such majority produced and imported not less than two-thirds of the cotton produced and imported during the representative period, favor the amendment. The Secretary shall publish the results of the referendum.** *Within a period not to exceed 90 days from publication of the results of the referendum, the Secretary shall publish final implementing regulations which will be effective on publication.*

(c) The failure of cotton producers to approve an amendment to any order issued under this Act shall not be deemed to invalidate such order.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 9. (a) The Secretary shall, whenever he finds that any order issued under this Act, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this Act, terminate or suspend the operation of such order or such provision thereof. (7 U.S.C. 2108(a).)

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of cotton producers voting in the referendum approving the order, to determine whether cotton producers favor the termination or suspension of the order, and he shall suspend or terminate such order at the end of the marketing year, as defined in the order, whenever he determines that suspension or termination of the order is approved or favored by a majority of the producers of cotton voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cotton, and who produced more than 50 per centum of the volume of the cotton produced by the cotton producers voting in the referendum. (7 U.S.C. 2108(b).)

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this Act. (7 U.S.C. 2108(c).)

PROVISIONS APPLICABLE TO AMENDMENTS

SEC. 10. The provisions of this Act applicable to orders shall be applicable to amendments to orders. (7 U.S.C. 2109.)

PRODUCER REFUNDS

SEC. 11. [*(a)*] *Notwithstanding any other provision of this Act, any* [*Except as provided in subsection (b), any*] *cotton producer against whose cotton any assessment is made and collected from him under the authority of this Act and who is not in favor of supporting the research and promotion program as provided for herein shall have the right to demand and receive from the Cotton Board a refund of such assessment: Provided, That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary, but in no event less than ninety days, and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand therefor. (7 U.S.C. 2110.)*

[*(b)(1) Beginning on the date of enactment of the Cotton Research and Promotion Program Act of 1987, refunds of assessments collected under this Act shall be made only as authorized by the provisions of this subsection.*

[*(2) Prior to the date that the results of the referendum conducted under section 8(b) are announced by the Secretary, any person shall have the right to demand and receive from the Cotton Board a refund of an amount collected under section 7 if such person is responsible for paying such amount and does not support the program established under this Act. Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Cotton Board and approved by the Secretary, but in no event less than 90 days from the date of payment, and on proof satisfactory to the Board that such person paid the amount for which refund is sought. Any such refund shall be made within 60 days after demand therefor.*

[*(3) Effective beginning on the date that the Secretary announces the results of the referendum conducted under section 8(b), and if such referendum is approved by a majority of those persons voting in the referendum, the authority of the Cotton Board to accept and process applications for refunds under this section shall terminate, unless such date is prior to July 1, 1988, in which case the authority shall terminate on June 30, 1988.*]

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DEFINITIONS

SEC. 17. As used in this Act.

(a) The term "Secretary" means the Secretary of Agriculture.

(b) The term "person" means any individual, parternship, corporation, association, or any other entity.

(c) The term "cotton" means (1) all upland cotton harvested in the United States, and, except as used in section 7(e), includes cottonseed of such cotton and the products and the products derived from

such cotton and its seed and (2) upland cotton produced in foreign countries and imported into the United States [*, and products containing processed cotton that were produced in foreign countries and imported into the United States*].

(d) The term "handler" means any person who handles cotton or cottonseed, **or who imports cotton into the United States** *in the manner specified in the order or in the rules and regulations issued thereunder.*

(e) The term "United States" means the 50 States of the United States of America.

(f) The term "cotton-producing State" means any State in which the average annual production of cotton during the five years 1960–1964 was twenty thousand bales or more, except that any State producing cotton whose production during such period was less than such amount shall under regulations prescribed by the Secretary be combined with another State or States producing cotton in such manner that such an average annual production of such combination of States totaled twenty thousand bales or more, and the term "cotton-producing State" shall include any such combination of States.

(g) The term "marketing" includes the sale of cotton or the pledging of cotton to the Commodity Credit Corporation as collateral for a price support loan. (7 U.S.C. 2116.)

(h) The term "cotton producers" and any other reference to persons who produce cotton shall, if the amendment referred to in section 3(b) of the Cotton Research and Promotion Program Act of 1987 is approved by referendum and for so long as such amendment is in effect, be treated as also including persons who import cotton into the United States.

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DISSENTING VIEWS OF REPRESENTATIVE RONNIE G. FLIPPO AND REPRESENTATIVE WILLIAM M. THOMAS

The Cotton Research and Promotion Program Act of 1987 (H.R. 1622), as reported by the Committee on Agriculture, is designed to further strengthen and restore equity to a highly successful self-help program which has been conducted for the past 20 years with funds generated through a voluntary per bale assessment on domestically produced upland cotton. According to statistics reported by the U.S. International Trade Commission (USITC), U.S. net domestic cotton consumption has increased over 42 percent since 1977. This dramatic reversal of the consumption trends of the 1960's is attributable in a large measure to the effectiveness of the cotton industry's research and promotion program which has been designed to allow thousands of individual small farmer-businessmen to promote cotton in a highly competitive, consumer-oriented marketplace.

However, during the period that U.S. net domestic consumption of cotton increased 42 percent, USITC statistics reveal that imports of cotton in the form of cotton textile and apparel products increased 187 percent. The same report also documents that 39 percent of the raw cotton equivalent content of U.S. consumer purchases was in imported products. A United States Department of

Agriculture study further reveals that, on average, over 80 percent of cotton in imported textile and apparel products was foreign grown.

The House Committee on Agriculture conducted a public hearing in the Subcommittee on Cotton, Rice, and Sugar on March 18, 1987 during which 23 witnesses presented testimony on the provisions of H.R. 1622, namely, that all those who benefit from the generic research and promotion program should be subject to the same assessment. One group suggested that the assessment remain voluntary for domestic producers and be made mandatory for imported products. This, of course, would be inconsistent with the GATT requirements that domestic and imported products be treated equally. The Committee on Agriculture unanimously approved the Subcommittee's report on June 2, 1987.

The Ways and Means Committee substitute, adopted with minimal discussion, essentially authorizes continuation of the current program. The Ways and Means Committee substitute completely ignores the inequity in the current program which allows imported cotton textile and apparel products to gain full benefit from a successful generic promotion program without making any financial contributions.

During consideration of the substitute, the Committee discounted the fact that imported cotton products account for nearly 40 percent of U.S. net domestic consumption of cotton. The Committee also ignored the fact that several other commodities have programs similar to the program authorized in H.R. 1622. And most importantly, the Committee was concerned with administrative requirements of the proposal which would actually be minimal because: coverage could be easily limited to a very finite list of products, Customs already receives the bulk of the information in order to process entry of goods into the United States, and the industry would be obligated to reimburse Customs for all expenses incurred in collecting the assessment.

In summary, the Ways and Means Committee substitute virtually negates the beneficial and equitable provisions of H.R. 1622 as reported by the Committee on Agriculture. The original version of H.R. 1622 was equitable, GATT consistent, based on established precedent and would not have created administrative problems. The substitute would simply extend the current program and continue to provide a free-ride for imported products at the expense of domestic cotton producers.

Members are urged to carefully consider the merits of the original version of H.R. 1622 which offers the potential to expand a highly successful program at no cost to government and, in fact, according to CBO could reduce government outlays in the future.

RONNIE G. FLIPPO.
WILLIAM M. THOMAS.

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